

W. P. No. 197 of 2000

Budh Ram Singh Kanwar
Aged about years
S/o Sri Ranjit Singh
R/o village Baderimuda
P.O.Gopalpur
Tehsil, Katghora,
Dist.Korba (Chhattisgarh)
Candidate of Chhattigarhi
Samaj Party in Legislative
Assembly-24 Marwahi

RESPONDENTS

1. Ajit Jogi, S/o
Aged about 55 years, a
Candidate for Member of
Legislative Assembly in
Legislative Assembly-24
Marwahi, Chief Minister
Of Chhattisgarh, Raipur
2. State of Chhattisgarh
through the concerned
Secretary, Bilaspur
3. The State Election
Commissioner,
Govt. of Chhattisgarh,
Raipur
4. Returning Officer
Legislative Assembly-24
Marwahi, (Collector,
Bilaspur) Distt. Bilaspur

PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA
FOR ISSUANCE OF WRIT IN THE NATURE OF CIRTIORARY, MANDAMUS,
QUO-WARRANTO ETC. OR THE LIKE.

आदेश पत्रक (पुर्वानुबद्ध)

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
19.2.2001	<u>Before:</u> <u>Hon'ble Mr. Justice W.A. Shishak, CJ.</u> Shri Satish Chandra Verma for the petitioner. Dr. N.K. Shukla, Dy.A.G., for the respondents. Heard on admission. The matter concerns rejection of nomination paper filed by the writ petitioner on a ticket of Chhattisgarhi Samaj Party. The election in question is in respect of 24 Marwahi Legislative constituency. Vacancy of the seat of this constituency was caused upon the resignation tendered by one Ramdayal Uike who represented this constituency in the present Assembly. In the said vacated seat, election has been declared. The last date for submission of nomination paper was 31.1.2001. On 1st February, 2001 nomination papers were scrutinised. The nomination filed by the writ petitioner was rejected. It is contended that the rejection of the nomination paper of the writ petitioner was made wrongly. It is <u>the</u> further contention of the writ petitioner that rejection of his nomination paper was a result of conspiracy hatched against his candidature	

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आदेश पत्रक

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मामला क्रमांक

सन् 200

विरुद्ध

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	inasmuch as he had come to know about this conspiracy some time before the nominations were scrutinised. Shri S.C. Verma, learned counsel for the petitioner, states that the writ petitioner ~~has~~ protested against the rejection first to the Returning Officer, Shri Sunil Kujur. As he did not succeed in getting any relief, he again approached the State Election Officer. Having failed to get any relief from the State Election Officer, the writ petitioner also approached the Election Commission of India. ~~It is now~~ having failed to get relief from those authorities, the petitioner has filed this writ petition under Article 226 of the Constitution to decide as to the legality of the rejection of the nomination paper of the writ petitioner. It may be stated that election in respect of the said constituency is taking place today. Therefore, a prayer has been made that the result of the election may also not be declared. Shri Shukla refers to me Article 329 (b) of	

[पीछे देखिये]

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	the Constitution of India which states- "no election to either House of Parliament or to the House or either House of the Legislature of a State shall be called in question except by an election petition presented to such authority and in such manner as may be provided for by or under any law made by the appropriate Legislature." It is submitted by Dr. Shukla that any dispute as regards election will have to be decided in an election petition to be presented by the aggrieved party. It is submitted ~~by the petitioner~~ that there is no appeal provided by the Representation of the People Act, 1951 against the order of Returning Officer accepting or rejecting nomination paper. It is submission of Dr. Shukla that rejection of nomination on scrutiny is part of the election process. Any dispute that takes place after the election process has ^{begun} ~~been over~~ will have to be decided only as an electoral dispute and it should be decided only by the competent authority in an election petition to be filed by the aggrieved person . According to the petitioner, there was conspiracy to reject his nomination and, therefore, it is a very serious matter and should be properly examined. It seems very clear to me that the dispute	

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विरुद्ध

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	is an election dispute, therefore, it should be decided only in an election petition filed by the aggrieved person. I cannot accept the view of the learned counsel for the petitioner ^{that} ~~wherein~~ such very difficult question which should be gone into carefully by the competent authority should also be examined by this Court in exercise of its extra-ordinary jurisdiction under Article 226 of the Constitution. In other words, the issue raised in the present petition regarding rejection of the nomination paper of the writ petitioner cannot be examined in exercise of writ jurisdiction under Art. 226 of the Constitution. In the result, I am not inclined to accept this petition. It is accordingly dismissed. c.c. today.	Sd/- Chief Justice

[पीछे देखिये]

CCS
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